

DEPARTMENT OF THE ARMY PERMIT

Permittee: Florida Department of Transportation - District 5
Attn: Patrick Muench
719 S. Woodland Blvd.
Deland, Florida 32720

Permit No: SAJ-2008-4725 (IP-AWP)

Issuing Office: U.S. Army Engineer District, Jacksonville

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: The placement of clean fill material into 0.987 acres of waters of the United States, wetlands and surface waters, for the construction of a 12-foot wide multi-use trail parallel to State Road 600 (US 92). The work described above is to be completed in accordance with the 3 attachments affixed at the end of this permit instrument.

Project Location: The project is located on the north side of State Road (SR) 600 (US 92), within the existing right-of-way, extending for approximately 2.64 miles between SR 15 and Kepler Road. The project is located in Section 35, Township 16 South, Range 30 East and Section 3 and 4, Township 17 South, Range 30 East, Volusia County, Florida. The project as proposed will impact Little Haw Creek and its associated wetlands.

Directions to site: From the intersection of SR 15 and SR 600 proceed east on SR 600.

Latitude & Longitude: Latitude 29.0610 North
Longitude 81.2786 West

Permit Conditions

General Conditions:

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1. The time limit for completing the work authorized ends on **March 10, 2014**. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.

2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature and the mailing address of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

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Special Conditions:

1. **Reporting Address:** All reports, documentation and correspondence required by the conditions of this permit shall be submitted to the following address: U.S. Army Corps of Engineers, Regulatory Division, Enforcement Section, P.O. 4970, Jacksonville, Florida 32232. The Permittee shall reference this permit number, SAJ-2008-4725(IP-AWP), on all submittals.
2. **Commencement Notification:** Within 10 days from the date of initiating the authorized work, the Permittee shall provide to the Corps a written notification of the date of commencement of work authorized by this permit.
3. **Erosion Control:** Prior to the initiation of any work authorized by this permit, the Permittee shall install erosion control measures along the perimeter of all work areas to prevent the displacement of fill material outside the work area. Immediately after completion of the final grading of the land surface, all slopes, land surfaces, and filled areas shall be stabilized using sod, degradable mats, barriers, or a combination of similar stabilizing materials to prevent erosion. The erosion control measures shall remain in place and be maintained until all authorized work has been completed and the site has been stabilized.
4. **As-Builts:** Within 60 days of completion of the authorized work or at the expiration of the construction window of this permit, whichever occurs first, the Permittee shall submit as-built drawings of the authorized work and a completed As-Built Certification Form (Attachment 3) to the Corps. The drawings shall be signed and sealed by a registered professional engineer and include the following:
 - a. A plan view drawing of the location of the authorized work footprint (as shown on the permit drawings) with an overlay of the work as constructed in the same scale as the attached permit drawings (8½-inch by 11-inch). The drawing should show all "earth disturbance," including wetland impacts, water management structures, and any on-site mitigation areas.
 - b. List any deviations between the work authorized by this permit and the work as constructed. In the event that the

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completed work deviates, in any manner, from the authorized work, describe on the As-Built Certification Form the deviations between the work authorized by this permit and the work as constructed. Clearly indicate on the as-built drawings any deviations that have been listed. Please note that the depiction and/or description of any deviations on the drawings and/or As-Built Certification Form does not constitute approval of any deviations by the U.S. Army Corps of Engineers.

c. The Department of the Army Permit number.

d. Include pre- and post-construction aerial photographs of the project site, if available.

5. **Fill Material:** The Permittee shall use only clean fill material for this project. The fill material shall be free from items such as trash, debris, automotive parts, asphalt, construction materials, concrete block with exposed reinforcement bars, and soils contaminated with any toxic substance, in toxic amounts in accordance with Section 307 of the Clean Water Act.

6. **Regulatory Agency Changes:** Should any other regulatory agency require changes to the work authorized or obligated by this permit, the Permittee is advised that a modification to this permit instrument is required prior to initiation of those changes. It is the Permittee's responsibility to request a modification of this permit from the Cocoa Regulatory Office.

7. **Compensatory Mitigation:** Wetland impacts will be mitigated pursuant to the Senate Bill 1986 Rule - Section 373.4137 Florida Statutes (F.S.). Within 6 months from the date of initiating the authorized work or 12 months from the effective date of this permit, whichever first occurs, the Permittee shall complete compensatory mitigation in accordance with the 2009-2010 St. Johns River Water Management District (SJRWMD) FDOT MITIGATION PLAN, Mitigation Project Group SJ56, #417205. Approved mitigation planned for this mitigation group consists of a combination of preservation and habitat enhancement.

SJRWMD shall submit an annual status report and five year update of the mitigation described above in accordance with the Memorandum of Understanding between the SJRWMD and the United

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States Army Corps of Engineers, Jacksonville District signed October 16, 2007 and October 9, 2007 respectively.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

() Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

() Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal projects.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

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c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision: This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170)

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accomplish the corrective measures by contract or otherwise and bill you for the cost.

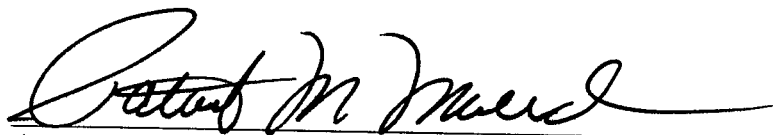
6. Extensions: General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

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Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.


(PERMITTEE)

3/5/09
(DATE)

Patrick M. Muench
(PERMITTEE NAME-PRINTED)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.


(DISTRICT ENGINEER)
Paul L. Grosskruger
Colonel, U.S. Army
District Commander

3/10/09
(DATE)

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When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFEE-SIGNATURE)

(DATE)

(NAME-PRINTED)

(ADDRESS)

(CITY, STATE, AND ZIP CODE)

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***Attachments to Department of the Army
Permit Number SAJ-2008-4725(IP-AWP)***

1. PERMIT DRAWINGS: 6 pages
2. WATER QUALITY CERTIFICATION: Specific Conditions of the water quality permit/certification in accordance with General Condition number 5 on page 2 of this DA permit. pages.
3. AS-BUILT CERTIFICATION: 1 page

RECEIVED

DEC 10 2008

JACKSONVILLE DISTRICT
USACE

Project
Vicinity

17

600

15

Deland Muni Sidney H Taylor Field

Project
Start

Project
End

North De Land

De Land

West De Land

De Land Southwest

U.S. Army Corps of Engineers

Permit # 545-2008-4725

Date: 3/10/09

Attachment: 2



U.S. Army Corps of Engineers

Application # 545-2008-4725

Date: 12/23/08

Sheet 1 of 6



Lotspeich and Associates, Inc.

ECOLOGICAL CONSULTANTS

2711 West Fairbanks Avenue, Winter Park, Florida 32789
407.740.8482 Fax: 645.1305 www.lotspeichandassociates.com

**SR 600 Multi-Use Trail
from SR 15 to Kepler Rd**

In Section 35, Township 16 South, Range 30 East and
Sections 3 and 4, Township 17, Range 30 East
Volusia County, Florida

Vicinity Map

↑ North

Scale: 1" = 1 mile

Figure 1

File: 07226.MXD

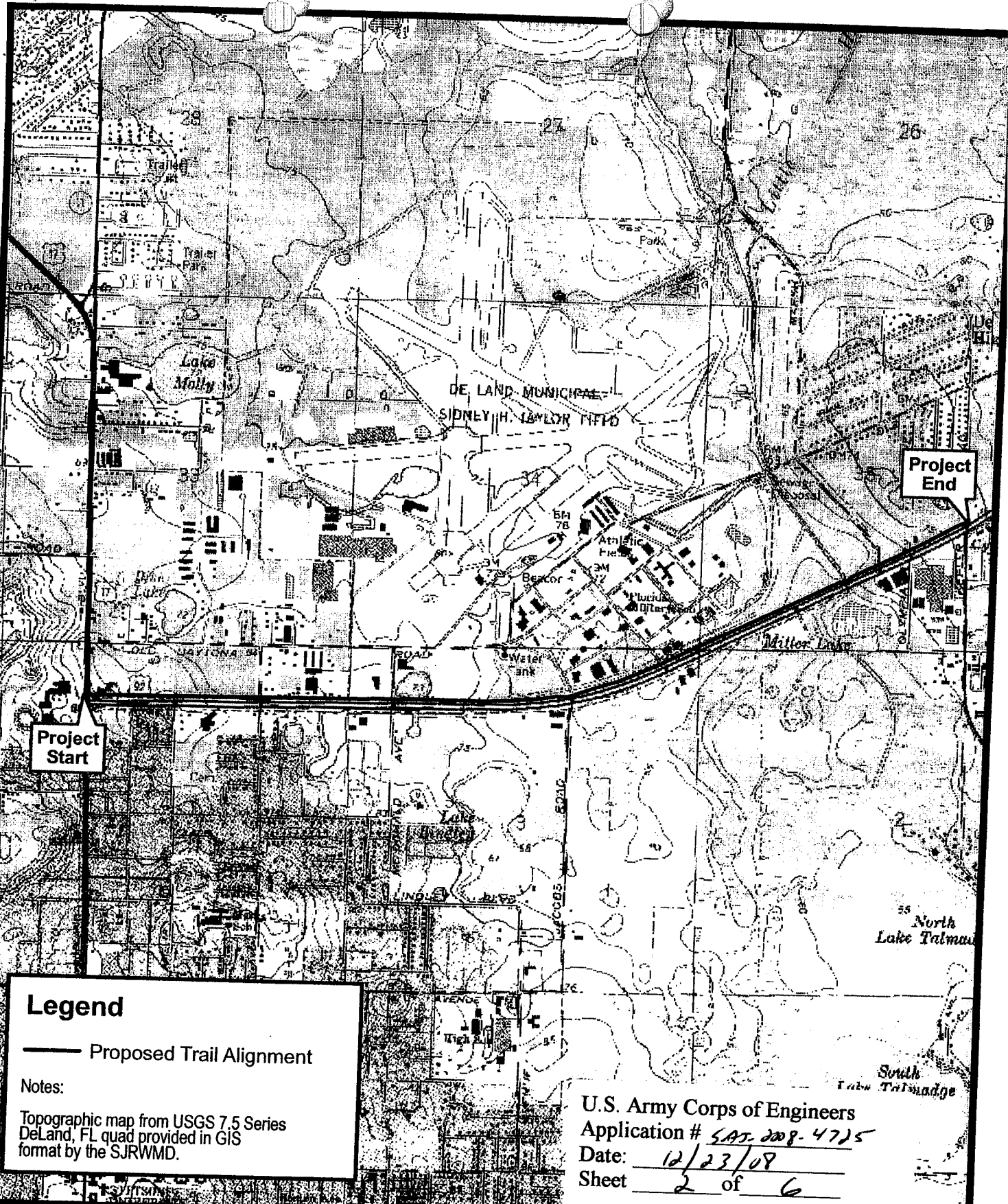
Drawn By:

BEH

Job No.: 2007-226.33

Date:

11 Aug 2008



Legend

— Proposed Trail Alignment

Notes:

Topographic map from USGS 7.5 Series
DeLand, FL quad provided in GIS
format by the SJRWMD.

U.S. Army Corps of Engineers
Application # SAT 2008-4725
Date: 12/23/08
Sheet 2 of 6



Lotspeich and Associates, Inc.
ECOLOGICAL CONSULTANTS

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SR 600 Multi-Use Trail from SR 15 to Kepler Rd

In Section 35, Township 16 South, Range 30 East and
Sections 3 and 4, Township 17, Range 30 East
Volusia County, Florida

Topographic Map

File: 07226.MXD

Drawn By:

BEH

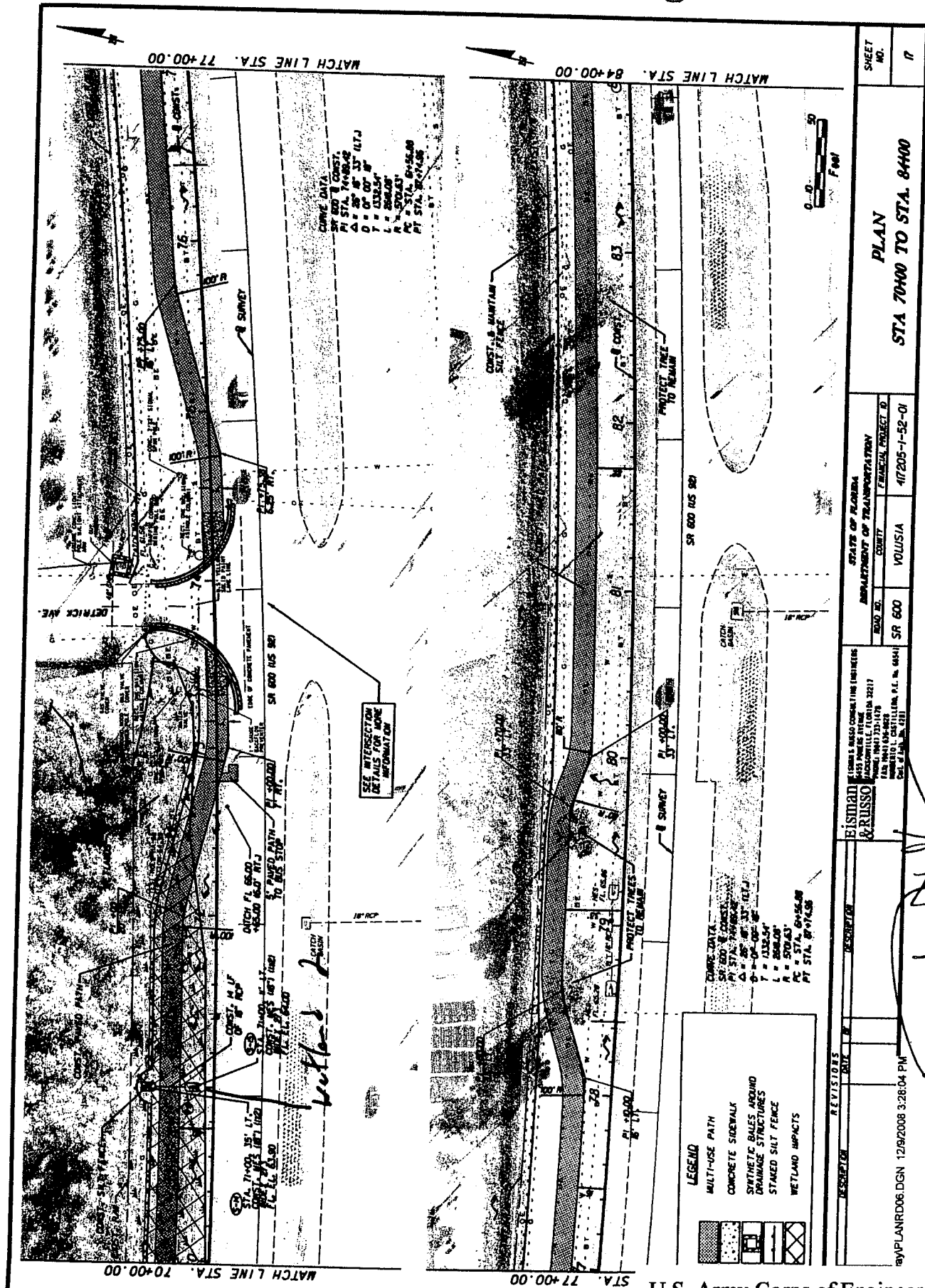
Job No.: 2007-226.33

Date: 11 Aug 2008

↑ North

Scale: 1" = 2,000'

Figure 2



U.S. Army Corps of Engineers
 Application # 1A5-2008-4715
 Date: 12/23/08
 Sheet 4 of 6

ST. JOHNS RIVER WATER MANAGEMENT DISTRICT
Post Office Box 1429
Palatka, Florida 32178-1429

PERMIT NO. 40-127-119433-1

DATE ISSUED: March 9, 2009

PROJECT NAME: US 92 (SR 600) Multi-Use Trail (SR 15 to Kepler Rd), FPID 417205-1-52-01

A PERMIT AUTHORIZING:

Construction of a 19.20-acre Surface Water Management System with stormwater treatment by best management practices and swales for US 92 (SR 600) Multi-Use Trail (SR 15 to Kepler Rd), FPID 417205-1-52-01. This permit also authorizes work in, on, or over 1.19 acres of wetlands and other surface waters.

LOCATION:

Section(s):	35	Township(s):	16S	Range(s):	30E
	3, 4		17S		30E

Volusia County

FDOT District 5
719 South Woodland Blvd, MS 542
Deland, FL 32720

Permittee agrees to hold and save the St. Johns River Water Management District and its successors harmless from any and all damages, claims, or liabilities which may arise from permit issuance. Said application, including all plans and specifications attached thereto, is by reference made a part hereof.

This permit does not convey to permittee any property rights nor any rights of privileges other than those specified herein, nor relieve the permittee from complying with any law, regulation or requirement affecting the rights of other bodies or agencies. All structures and works installed by permittee hereunder shall remain the property of the permittee.

This permit may be revoked, modified or transferred at any time pursuant to the appropriate provisions of Chapter 373, Florida Statutes:

PERMIT IS CONDITIONED UPON:

See conditions on attached "Exhibit A", dated March 9, 2009.

AUTHORIZED BY: St. Johns River Water Management District
Department of Resource Management

By: 
(Service Center Director - Altamonte Springs)
David Dewey

U.S. Army Corps of Engineers
Permit # 545-2008-4725
Date: 3/10/09
Attachment: 2



"EXHIBIT A"
CONDITIONS FOR ISSUANCE OF PERMIT NUMBER 40-127-119433-1
FDOT DISTRICT 5
DATED MARCH 9, 2009

1. All activities shall be implemented as set forth in the plans, specifications and performance criteria as approved by this permit. Any deviation from the permitted activity and the conditions for undertaking that activity shall constitute a violation of this permit.
2. This permit or a copy thereof, complete with all conditions, attachments, exhibits, and modifications, shall be kept at the work site of the permitted activity. The complete permit shall be available for review at the work site upon request by District staff. The permittee shall require the contractor to review the complete permit prior to commencement of the activity authorized by this permit.
3. Activities approved by this permit shall be conducted in a manner which do not cause violations of state water quality standards.
4. Prior to and during construction, the permittee shall implement and maintain all erosion and sediment control measures (best management practices) required to retain sediment on-site and to prevent violations of state water quality standards. All practices must be in accordance with the guidelines and specifications in chapter 6 of the Florida Land Development Manual: A Guide to Sound Land and Water Management (Florida Department of Environmental Regulation 1988), which are incorporated by reference, unless a project specific erosion and sediment control plan is approved as part of the permit, in which case the practices must be in accordance with the plan. If site specific conditions require additional measures during any phase of construction or operation to prevent erosion or control sediment, beyond those specified in the erosion and sediment control plan, the permittee shall implement additional best management practices as necessary, in accordance with the specifications in chapter 6 of the Florida Land Development Manual: A Guide to Sound Land and Water Management (Florida Department of Environmental Regulation 1988). The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources.
5. Stabilization measures shall be initiated for erosion and sediment control on disturbed areas as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than 7 days after the construction activity in that portion of the site has temporarily or permanently ceased.
6. At least 48 hours prior to commencement of activity authorized by this permit, the permittee shall submit to the District a Construction Commencement Notice Form No. 40C-4.900(3) indicating the actual start date and the expected completion date.
7. When the duration of construction will exceed one year, the permittee shall submit construction status reports to the District on an annual basis utilizing an Annual Status Report Form No. 40C-4.900(4). These forms shall be submitted during June of each year.
8. For those systems which will be operated or maintained by an entity which will require an easement or deed restriction in order to provide that entity with the authority necessary to operate or maintain the system, such easement or deed restriction, together with any other final operation or maintenance documents as are required by subsections 7.1.1 through 7.1.4 of the Applicant's Handbook: Management and Storage of Surface Waters, must be submitted to the District for approval. Documents meeting the requirements set forth in these subsections of the Applicant's Handbook will be approved. Deed restrictions, easements and other operation and maintenance documents which require recordation either with the Secretary of State or the Clerk of the Circuit Court must be so recorded prior

to lot or unit sales within the project served by the system, or upon completion of construction of the system, whichever occurs first. For those systems which are proposed to be maintained by county or municipal entities, final operation and maintenance documents must be received by the District when maintenance and operation of the system is accepted by the local governmental entity. Failure to submit the appropriate final documents referenced in this paragraph will result in the permittee remaining liable for carrying out maintenance and operation of the permitted system.

9. Each phase or independent portion of the permitted system must be completed in accordance with the permitted plans and permit conditions prior to the initiation of the permitted use of site infrastructure located within the area served by the portion or phase of the system. Each phase or independent portion of the system must be completed in accordance with the permitted plans and permit conditions prior to transfer of responsibility for operation and maintenance of that phase or portion of the system to local government or other responsible entity.
10. Within 30 days after completion of construction of the permitted system, or independent portion of the system, the permittee shall submit a written statement of completion and certification by a registered professional engineer or other appropriate individual as authorized by law, utilizing As Built Certification Form 40C-1.181(13) or 40C-1.181(14) supplied with this permit. When the completed system differs substantially from the permitted plans, any substantial deviations shall be noted and explained and two copies of as-built drawings submitted to the District. Submittal of the completed form shall serve to notify the District that the system is ready for inspection. The statement of completion and certification shall be based on on-site observation of construction (conducted by the registered professional engineer, or other appropriate individual as authorized by law, or under his or her direct supervision) or review of as-built drawings for the purpose of determining if the work was completed in compliance with approved plans and specifications. As-built drawings shall be the permitted drawings revised to reflect any changes made during construction. Both the original and any revised specifications must be clearly shown. The plans must be clearly labeled as "as-built" or "record" drawing. All surveyed dimensions and elevations shall be certified by a registered surveyor. The following information, at a minimum, shall be verified on the as-built drawings:
 1. Dimensions and elevations of all discharge structures including all weirs, slots, gates, pumps, pipes, and oil and grease skimmers;
 2. Locations, dimensions, and elevations of all filter, exfiltration, or underdrain systems including cleanouts, pipes, connections to control structures, and points of discharge to the receiving waters;
 3. Dimensions, elevations, contours, or cross-sections of all treatment storage areas sufficient to determine state-storage relationships of the storage area and the permanent pool depth and volume below the control elevation for normally wet systems, when appropriate;
 4. Dimensions, elevations, contours, final grades, or cross-sections of the system to determine flow directions and conveyance of runoff to the treatment system;
 5. Dimensions, elevations, contours, final grades, or cross-sections of all conveyance systems utilized to convey off-site runoff around the system;
 6. Existing water elevation(s) and the date determined; and Elevation and location of benchmark(s) for the survey.

11. The operation phase of this permit shall not become effective until the permittee has complied with the requirements of general condition 9 above, the District determines the system to be in compliance with the permitted plans, and the entity approved by the District in accordance with subsections 7.1.1 through 7.1.4 of the Applicant's Handbook: Management and Storage of Surface Waters, accepts responsibility for operation and maintenance of the system. The permit may not be transferred to such an approved operation and maintenance entity until the operation phase of the permit becomes effective. Following inspection and approval of the permitted system by the District, the permittee shall request transfer of the permit to the responsible approved operation and maintenance entity, if different from the permittee. Until the permit is transferred pursuant to section 7.1 of the Applicant's Handbook: Management and Storage of Surface Waters, the permittee shall be liable for compliance with the terms of the permit.
12. Should any other regulatory agency require changes to the permitted system, the permittee shall provide written notification to the District of the changes prior implementation so that a determination can be made whether a permit modification is required.
13. This permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any activity approved by this permit. This permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the permit and chapter 40C-4 or chapter 40C-40, F.A.C.
14. The permittee shall hold and save the District harmless from any and all damages, claims, or liabilities which may arise by reason of the activities authorized by the permit or any use of the permitted system.
15. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered specifically approved unless a specific condition of this permit or a formal determination under rule 40C-1.1006, F.A.C., provides otherwise.
16. The permittee shall notify the District in writing within 30 days of any sale, conveyance, or other transfer of ownership or control of the permitted system or the real property at which the permitted system is located. All transfers of ownership or transfers of a permit are subject to the requirements of rule 40C-1.612, F.A.C. The permittee transferring the permit shall remain liable for any corrective actions that may be required as a result of any permit violations prior to such sale, conveyance or other transfer.
17. Upon reasonable notice to the permittee, District authorized staff with proper identification shall have permission to enter, inspect, sample and test the system to insure conformity with the plans and specifications approved by the permit.
18. If historical or archaeological artifacts are discovered at any time on the project site, the permittee shall immediately notify the District.
19. The permittee shall immediately notify the District in writing of any previously submitted information that is later discovered to be inaccurate.
20. This permit for construction will expire five years from the date of issuance.

21. At a minimum, all retention and detention storage areas must be excavated to rough grade prior to building construction or placement of impervious surface within the area to be served by those facilities. To prevent reduction in storage volume and percolation rates, all accumulated sediment must be removed from the storage area prior to final grading and stabilization.
22. All wetland areas or water bodies that are outside the specific limits of construction authorized by this permit must be protected from erosion, siltation, scouring or excess turbidity, and dewatering.
23. Prior to construction, the permittee must clearly designate the limits of construction on-site. The permittee must advise the contractor that any work outside the limits of construction, including clearing, may be a violation of this permit.
24. This permit authorizes construction in accordance with the plans received by the District on February 16, 2009.
25. The operation and maintenance entity shall inspect the stormwater or surface water management system once within two years after the completion of construction and every two years thereafter to determine if the system is functioning as designed and permitted. The operation and maintenance entity must maintain a record of each required inspection, including the date of the inspection, the name, address, and telephone number of the inspector, and whether the system was functioning as designed and permitted, and make such record available for inspection upon request by the District during normal business hours.

If at any time the system is not functioning as designed and permitted, then within 14 days the entity shall submit an Exceptions Report on form number 40C-42.900(6), Exceptions Report for Stormwater Management Systems Out of Compliance.
26. Mitigation to offset the 0.957 acres of adverse impacts to wetlands and other surface waters authorized by this permit will be provided through Section 373.4137, F.S. Construction activities shall not occur prior to the approval of the mitigation plan by the District's Governing Board or its designee.

Notice Of Rights

1. A person whose substantial interests are or may be affected has the right to request an administrative hearing by filing a written petition with the St. Johns River Water Management District (District). Pursuant to Chapter 28-106 and Rule 40C-1.1007, Florida Administrative Code, the petition must be filed (received) either by delivery at the office of the District Clerk at District Headquarters, P. O. Box 1429, Palatka Florida 32178-1429 (4049 Reid St., Palatka, FL 32177) or by e-mail with the District Clerk at Clerk@sjrwmd.com, within twenty-six (26) days of the District depositing notice of District decision in the mail (for those persons to whom the District mails actual notice), within twenty-one (21) days of the District emailing notice of District decision (for those persons to whom the District emails actual notice), or within twenty-one (21) days of newspaper publication of the notice of District decision (for those persons to whom the District does not mail or email actual notice). A petition must comply with Sections 120.54(5)(b)4. and 120.569(2)(c), Florida Statutes, and Chapter 28-106, Florida Administrative Code. The District will not accept a petition sent by facsimile (fax), as explained in paragraph no. 5 below. Mediation pursuant to Section 120.573, Florida Statutes, is not available.
2. If the Governing Board takes action that substantially differs from the notice of District decision, a person whose substantial interests are or may be affected has the right to request an administrative hearing by filing a written petition with the District, but this request for administrative hearing shall only address the substantial deviation. Pursuant to Chapter 28-106 and Rule 40C-1.1007, Florida Administrative Code, the petition must be filed (received) at the office of the District Clerk at the mail/street address or email address described in paragraph no. 1 above, within twenty-six (26) days of the District depositing notice of final District decision in the mail (for those persons to whom the District mails actual notice), within twenty-one (21) days of the District emailing the notice of final District decision (for those persons to whom the District emails actual notice), or within twenty-one (21) days of newspaper publication of the notice of final District decision (for those persons to whom the District does not mail or email actual notice). A petition must comply with Sections 120.54(5)(b)4. and 120.569(2)(c), Florida Statutes, and Chapter 28-106, Florida Administrative Code. Mediation pursuant to Section 120.573, Florida Statutes, is not available.
3. A person whose substantial interests are or may be affected has the right to a formal administrative hearing pursuant to Sections 120.569 and 120.57(1), Florida Statutes, where there is a dispute between the District and the party regarding an issue of material fact. A petition for formal hearing must also comply with the requirements set forth in Rule 28-106.201, Florida Administrative Code.
4. A person whose substantial interests are or may be affected has the right to an informal administrative hearing pursuant to Sections 120.569 and 120.57(2), Florida Statutes, where no material facts are in dispute. A petition for an informal hearing must also comply with the requirements set forth in Rule 28-106.301, Florida Administrative Code.

Notice Of Rights

5. A petition for an administrative hearing is deemed filed upon receipt of the complete petition by the District Clerk at the District Headquarters in Palatka, Florida. Petitions received by the District Clerk after 5:00 p.m., or on a Saturday, Sunday, or legal holiday, shall be deemed filed as of 8:00 a.m. on the next regular District business day. The District's acceptance of petitions filed by e-mail is subject to certain conditions set forth in the District's Statement of Agency Organization and Operation (issued pursuant to Rule 28-101.001, Florida Administrative Code), which is available for viewing at www.sjrwmd.com. These conditions include, but are not limited to, the petition being in the form of a PDF file and being capable of being stored and printed by the District. Further, pursuant to the District's Statement of Agency Organization and Operation, attempting to file a petition by facsimile is prohibited and shall not constitute filing.
6. Failure to file a petition for an administrative hearing within the requisite time frame shall constitute a waiver of the right to an administrative hearing. (Rule 28-106.111, Florida Administrative Code).
7. The right to an administrative hearing and the relevant procedures to be followed are governed by Chapter 120, Florida Statutes, Chapter 28-106, Florida Administrative Code, and Rule 40C-1.1007, Florida Administrative Code. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means the District's final action may be different from the position taken by it in this notice. A person whose substantial interests are or may be affected by the District's final action has the right to become a party to the proceeding, in accordance with the requirements set forth above.
8. A person with a legal or equitable interest in real property who believes that a District permitting action is unreasonable or will unfairly burden the use of their property, has the right to, within 30 days of receipt of the notice of District decision regarding a permit application, apply for a special magistrate proceeding under Section 70.51, Florida Statutes, by filing a written request for relief at the Office of the District Clerk located at District Headquarters, P. O. Box 1429, Palatka, FL 32178-1429 (4049 Reid St., Palatka, FL 32177). A request for relief must contain the information listed in Subsection 70.51(6), Florida Statutes. Requests for relief received by the District Clerk after 5:00 p.m., or on a Saturday, Sunday, or legal holiday, shall be deemed filed as of 8:00 a.m. on the next regular District business day.
9. A timely filed request for relief under Section 70.51, Florida Statutes, tolls the time to request an administrative hearing under paragraph nos. 1 or 2 above. (Paragraph 70.51(10)(b), Florida Statutes). However, the filing of a request for an administrative hearing under paragraph nos. 1 or 2 above waives the right to a special magistrate proceeding. (Subsection 70.51(10)(b), Florida Statutes).
10. Failure to file a request for relief within the requisite time frame shall constitute a waiver of the right to a special magistrate proceeding. (Subsection 70.51(3), Florida Statutes).

Notice Of Rights

11. Any person whose substantial interests are or may be affected who claims that final action of the District constitutes an unconstitutional taking of property without just compensation may seek review of the action in circuit court pursuant to Section 373.617, Florida Statutes, and the Florida Rules of Civil Procedures, by filing an action in circuit court within 90 days of rendering of the final District action, (Section 373.617, Florida Statutes).
12. Pursuant to Section 120.68, Florida Statutes, a party to the proceeding before the District who is adversely affected by final District action may seek review of the action in the District Court of Appeal by filing a notice of appeal pursuant to Rules 9.110 and 9.190, Florida Rules of Appellate Procedure, within 30 days of the rendering of the final District action.
13. A party to the proceeding before the District who claims that a District order is inconsistent with the provisions and purposes of Chapter 373, Florida Statutes, may seek review of the order pursuant to Section 373.114, Florida Statutes, by the Florida Land and Water Adjudicatory Commission, by filing a request for review with the Commission and serving a copy on the Florida Department of Environmental Protection and any person named in the order within 20 days of the rendering of the District order.
14. A District action is considered rendered, as referred to in paragraph nos. 11, 12, and 13 above, after it is signed on behalf of the District, and is filed by the District Clerk.
15. Failure to observe the relevant time frames for filing a petition for judicial review as described in paragraph nos. 11 and 12 above, or for Commission review as described in paragraph no. 13 above, will result in waiver of that right to review.

Notice Of Rights
Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing Notice of Rights has been sent by U.S.
Mail to:

FDOT District 5
719 South Woodland Blvd, MS 542
Deland, FL 32720

At 4:00 p.m. this 9th day of March, 2009.

Gloria Lewis

Division of Regulatory Information Management
Gloria Lewis, Director

St. Johns River Water Management District
Post Office Box 1429
Palatka, FL 32178-1429
(386) 329-4152
Permit Number: 40-127-119433-1

AS-BUILT CERTIFICATION BY PROFESSIONAL ENGINEER

Submit this form and one set of as-built engineered drawings to the U.S. Army Corps of Engineers, Enforcement Branch, Post Office Box 4970, Jacksonville, Florida 32232-0019. If you have questions regarding this requirement, please contact the Enforcement Branch at 904-232-2907.

1. Department of the Army Permit Number: _____

2. Permittee Information:

Name _____

Address _____

3. Project Site Identification:

Physical location/address _____

4. As-Built Certification:

I hereby certify that the authorized work has been accomplished in accordance with the Department of the Army permit with any deviations noted below. This determination is based upon on-site observation, scheduled and conducted by me or by a project representative under my direct supervision. I have enclosed one set of as-built engineering drawings.

Signature of Engineer

Name (Please type)

Florida Reg. Number

Company Name

Address

(Affix Seal)

City State ZIP

Date

Telephone Number

Deviations from the approved plans and specifications: (attach additional pages if necessary)

U.S. Army Corps of Engineers

Permit # 545-2008-4725

Date: 3/10/09

Attachment: 3



Statement of Findings

Number: _____



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30 January 2009

MEMORANDUM FOR RECORD

SUBJECT: Department of the Army Environmental Assessment and
Statement of Findings for the Above-numbered Permit Application

1. Applicant: Florida Department of Transportation - District 5
Attn: Patrick Muench
719 S. Woodland Blvd.
Deland, Florida 32720

2. Location, Project Description, Existing Conditions: The project is located on the north side of State Road (SR) 600 (US 92), within the existing right-of-way, extending for approximately 2.64 miles between SR 15 and Kepler Road. The project is located in Section 35, Township 16 South, Range 30 East and Section 3 and 4, Township 17 South, Range 30 East, Volusia County, Florida. The project as proposed will impact Little Haw Creek and its associated wetlands.

The applicant proposes to impact 1.12 acres of waters of the United States, wetlands and surface waters, for the construction of a 12-foot wide multi-use trail parallel to State Road 600.

The project area consists of a mixture of uplands and forested wetland communities. A Sand Pine community was observed west of North Kepler Road and east of Oak Street. A Hardwood-Conifer Mixed community is located in upland areas on either side of Marsh Rd. and west of Little Haw Creek.

Ditches and Creeks within the project area include Little Haw Creek west of Marsh Road (SW-1). This creek connects to Miller Lake to the south and to Clark Bay to the north. The crossing of Little Haw Creek through the project area has been highly modified and contains concrete structures in place for bank stabilization. Species noted within the creek include water lettuce (*Pistia stratiotes*), cattail (*Typha latifolia*), marsh pennywort (*Hydrocotyle umbellata*), and soft rush (*Juncus effusus*). Other surface waters (OSW-1 and OSW-2) include frequently maintained upland cut ditches located on either side of North McDonald Avenue.

Two distinct Wetland Forested Mixed communities are located within the proposed project alignment. Wetland 1 (W-1) is located immediately east of Langley Avenue and Wetland 2 (W-2) is located to the west of Detrick Avenue. Portions of both of these

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SUBJECT: Department of the Army Environmental Assessment and Statement of Findings on the Above-Numbered Permit Application.

wetlands are located within the existing right-of-way of SR 600. These communities are characterized by a variety of tree species including sweetbay magnolia (*Magnolia virginiana*), red maple (*Acer rubrum*), water oak (*Quercus nigra*), laurel oak (*Q. laurifolia*), loblolly bay (*Gordonia lasianthus*), and slash pine. The midstory and ground cover of this community (when present) includes primrose willow (*Ludwigia peruviana*), Carolina willow (*Salix caroliniana*), elderberry (*Sambucus canadensis*), royal fern (*Osmunda regalis*), smartweed (*Polygonum punctatum*), cinnamon fern (*Osmunda cinnamomea*), and blackberry (*Rubus* sp.). Those portions extending into the right-of-way are characterized by muck/mucky mineral soils and wetland vegetation including marsh pennywort, alligator weed (*Alternanthera philoxeroides*), coinwort (*Centella asiatica*), and smartweed.

The DeLand Municipal Airport is located directly to the north of a large portion of the project corridor.

3. Project Purpose: Basic: Construct a multi-use trail.

Overall: Construct a multi-use trail adjacent to SR 600 in DeLand, Florida.

4. Scope of Analysis: The scope of analysis was limited to the project site and included endangered species, essential fisheries habitat concerns, and cultural resources.

5. Statutory Authority: Section 404 of the Clean Water Act (33 U.S.C. 1344).

6. Other Federal, State, and Local Authorizations Obtained or Required and Pending:

a. State Permit/Certification: The St. Johns River Water Management District (SJRWMD) issued permit number 40-127-119433-1 on 9 March 2009.

b. Coastal Zone Management (CZM) consistency/permit: There is no evidence or indication from the State of Florida that the project is inconsistent with the Florida Coastal Zone Management Plan. Issuance of a SJRWMD permit will certify that the project is consistent with the CZM plan.

c. Other Authorizations: No information has been received regarding any other authorizations that may be required.

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7. Date of Public Notice and Summary of Comments

a. The application was received on 19 December 2008. The application was considered complete on the same date. A public notice was issued on 24 December 2008, and sent to all interested parties including appropriate State and Federal agencies. All comments received on this application have been reviewed and are summarized below:

(1) Environmental Protection Agency (EPA): Did not respond to the public notice.

(2) U.S. Fish and Wildlife Service (FWS): Did not respond to the public notice.

(3) National Marine Fisheries Service (NMFS): By letter dated 5 January 2009, the NMFS had no objection to the proposed project/deferred to FWS for comments on the project.

(4) State Historic Preservation Officer (SHPO): Did not respond to the public notice.

(5) No comments were received from State or Local agencies, organizations, individuals or any other interested party.

b. Applicant's response to the comments: The comments were not coordinated with the applicant since no adverse comments were received.

8. Alternatives:

a. Avoidance (No action, uplands, availability of other sites): The no action alternative would not allow for project completion. The applicant has sited the project within the right-of-way while maintaining a sufficient safety distance from the roadway. The acquisition of additional right-of-way would have made the project unfeasible and would have caused greater impacts to the aquatic environment by bisecting the existing wetlands. The applicant was not asked to seek avoidance measures given the limited right-of-way and environmental conditions within the project location.

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b. Minimization (modified project designs, etc.): The project has been minimized to the maximum extent possible that would allow the applicant to achieve the project purpose. The design of the multi use trail is constrained by FDOT safety guidelines. The applicant evaluated creating an elevated boardwalk through wetlands, but determined the long term maintenance of a wood project too expensive. Further, the use of an elevated boardwalk would limit access points making the trail difficult to use. The applicant also evaluated the construction of a safety barrier adjacent to the roadway and shifting the trail closer to the roadway. It was determined this minimization effort would not meet safety, noise, or aesthetic concerns.

c. Compensatory Mitigation (Wetland enhancement, creations, etc.): The mitigation offered by the applicant is sufficient to offset impacts on the values and functions of the wetland resource. Mitigation will be completed in accordance with section 373.4137, Florida Statutes, (F.S.). The mitigation as defined in the St. Johns River Water Management District 2009-2010 FDOT Wetland Mitigation Plan, Basin 16, Project Group NewSJ56 states: Approved mitigation planned for this mitigation group consists of a combination of preservation and habitat enhancement.

9. Evaluation of the 404(b)(1) Guidelines: The proposed project has been reviewed in accordance with the 404 (b)(1) Guidelines. The review shows that all the alternatives have been reviewed and it has been adequately demonstrated that the proposed alternative is the least environmentally damaging and only practicable alternative considering cost, existing technology and logistics. It would not cause or contribute to violations of State Water quality standards, jeopardize the existence of any endangered species or impact a marine sanctuary. No significant degradation would be expected and all appropriate and practicable steps have been taken to minimize impacts.

10. Public Interest Review:

a. Corps analysis of comments and responses: All comments received in response to the public notice have been considered in the following public interest review.

b. All public interest factors have been reviewed, including but not limited to the effects the work might have on conservation, economics, esthetics, general environmental

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concerns, wetlands, historic properties, fish and wildlife values, land use, navigation, recreation, water quality, safety, and consideration of property ownership. It has been determined that the proposed work will not adversely impact any of the public interest factors.

c. Describe the relative extent of the public and private need for the proposed structure or work: The proposed project involves the construction of a multi use trail parallel to US 92. The trail will provide users safer travel as well as recreational benefits along the roadway.

d. Describe the practicability of using reasonable alternative locations and methods to accomplish the objective of the purposed work where there are unresolved conflicts as to resource use: There are no unresolved conflicts regarding resource use.

e. Describe the extent and permanence of the beneficial and/or detrimental effects which the proposed work is likely to have on the public and private uses to which the area is suited: Detrimental impacts are expected to be minimal although they would be permanent in the construction area. The beneficial effects for public transportation may include an increase in public safety and the more effective movement of vehicular traffic by not having pedestrians on the roadway.

f. Threatened or Endangered Species: The applicant conducted endangered species surveys and did not observe the presence of any federally listed species within the project area. Additionally, the Corps conducted a site visit 13 January 2009, and did not observe any federally listed species. The project area is located within the maintained road right-of-way. The impact area does not contain suitable foraging habitat for the endangered wood stork. Routine maintenance within the right-of-way reduces the likelihood of the threatened eastern indigo snake. The Corps has determined the proposed project will not jeopardize the continued existence or critical habitat of any threatened or endangered species. This determination is supported by the lack of comments provided by the FWS.

g. Essential Fisheries Habitat (EFH): The public notice included an initial determination that the project would not have an adverse impact on EFH or Federally managed fisheries. The NMFS did not provide any EFH conservation recommendations in

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response to the public notice. Therefore, the Corps is satisfied that the consultation procedures outlined in 50 CFR Section 600.920 of the regulation to implement the EFH provisions of the Magnuson-Stevens Act have been met.

h. Corps Wetland Policy: The proposed wetland alteration is necessary to realize the project purpose and should result in minimal adverse environmental impacts. The benefits of the project would outweigh the minimal detrimental impacts. The project would result in a no-net loss of wetland functions and values. Therefore the project is in accordance with the Corps wetland policy.

i. Cumulative and Secondary Impacts: The project as proposed should not result in significant cumulative or secondary impacts. The acquisition of mitigation within the same drainage basin will ensure no cumulative wetland losses will occur. Additionally, the applicant will incorporate best management practices during construction which will reduce possible impacts to adjacent wetlands.

j. Corps Comments and Responses: Full consideration was given to all comments received during the public notice. No adverse comments were received.

11. Determinations:

a. Finding of No Significant Impact (FONSI). Having reviewed the information provided by the applicant and all interested parties and an assessment of the environmental impacts, I find that this permit action will not have a significant impact on the quality of the human environment. Therefore, an Environmental Impact Statement will not be required.

b. Compliance with 404(b)(1) guidelines. Having completed the evaluation in paragraph 7 above, I have determined that the proposed discharge complies with the 404(b)(1) guidelines.

c. Public interest determination: I find that issuance of a Department of the Army permit is not contrary to the public interest.

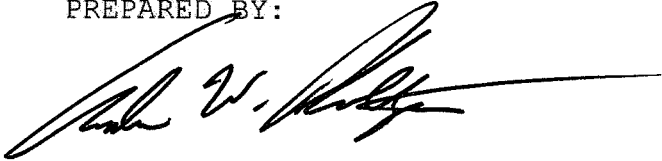
d. Section 176(c) of the Clean Air Act General Conformity Rule Review: The proposed permit action has been analyzed for

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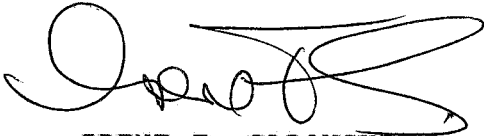
conformity applicability pursuant to regulations implementing
Section 176(c) of the Clean Air Act. It has been determined that
the activities proposed under this permit will not exceed *de*
minimis levels of direct emissions of a criteria pollutant or its
precursors and are exempted by 40 CFR Part 93.153. Any later
indirect emissions are generally not within the Corps' continuing
program responsibility and generally cannot be practicably
controlled by the Corps. For these reasons a conformity
determination is not required for this permit action.

PREPARED BY:



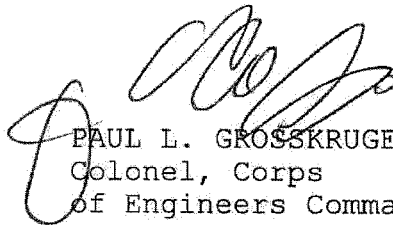
ANDREW W. PHILLIPS
Project Manager

REVIEWED BY:



IRENE F. SADOWSKI
Chief, Cocoa Permits
Section

APPROVED BY:



PAUL L. GROSSKRUGER
Colonel, Corps
of Engineers Commanding

CF:

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